

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALDO VERA, JR., as Personal Representative :
of the Estate of Aldo Vera, Sr., :
: Plaintiff, :
: :
v. : 12 Civ. 1596 (AKH)
: :
THE REPUBLIC OF CUBA, : **AFFIDAVIT OF BRIAN A. DAVIS**
: **IN OPPOSITION TO PLAINTIFF'S**
: **DEFENSE**
: **TURNOVER MOTION AND IN**
: **SUPPORT OF CROSS-MOTIONS TO**
: **INTERVENE AND TO STAY**
: :
Defendant, :
: :
v. :
: :
DEUTSCHE BANK TRUST COMPANY :
AMERICAS, :
: :
Garnishee. :
: :
X

PROVINCE OF ONTARIO)
: ss.:
CITY OF TORONTO)

BRIAN A. DAVIS, being duly sworn, deposes and says:

1. I am Executive Vice President, Corporate Development and Governance, National Bank Financial Inc.
2. National Bank Financial Inc. ("NBF"), a corporation with its head office in Montreal, is affiliated with the Treasury Department of the National Bank of Canada ("NBC"), its parent entity. For the purposes of this affidavit, NBF and the Treasury Department of NBC are collectively referred to as National Bank Financial Group ("NBFG").

3. I make this affidavit in opposition to Plaintiff's turnover motion and in support of cross-motions by NBC and NBFG to intervene in this proceeding and to stay the turnover motion.

4. I understand that, in June 2006, Sherritt International Corporation ("Sherritt") sought to pay insurance premiums to its insurance broker in Cuba, SAC Esicuba S.A. Ingresos Negocios Especiales ("SAC Esicuba").

5. Sherritt instructed NBC to transfer \$7,135,953.50 for that purpose.

6. On June 16, 2006, NBC (Treasury Department), as originator's bank, commenced an electronic funds transfer ("EFT"), issuing a payment order to Deutsche Bank Trust Company Americas ("DBTCA"), as intermediary bank, instructing DBTCA to transfer USD \$7,135,953.50 to Banco Financiero Internacional ("BFI"), as beneficiary's bank, for SAC Esicuba, as beneficiary. Attached as Exhibit C is a copy of the payment order.

7. DBTCA blocked the EFT and placed the funds in a blocked account (the "Blocked Funds"). Attached as Exhibit D is a copy of a notice from DBTCA so informing NBC.

8. On June 23, 2006, NBFG and Sherritt entered into a contract (the "Funding Agreement"), a copy of which is attached as Exhibit E. Pursuant to the Funding Agreement, NBFG advanced an amount equal to the amount of the Blocked Funds (the "Bridge Funds") and effectuated the payment of that amount to SAC Esicuba, thereby avoiding cancellation of Sherritt's insurance coverage. Sherritt, in turn, assigned to NBFG all of its rights to the Blocked Funds.

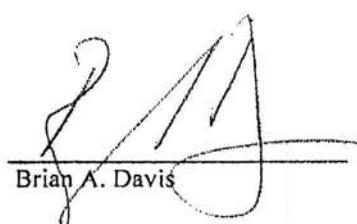
9. On November 23, 2006, NBFG and Sherritt entered into another contract (the "Settlement Agreement"), which terminated the Funding Agreement. Attached as Exhibit F is a copy of the Settlement Agreement. Pursuant to the Settlement Agreement, NBFG released

Sherritt from any obligation to repay the Bridge Funds. Sherritt paid \$2,140,786.05 to NBFG and NBFG assigned to Sherritt a 30% interest in the Blocked Funds.

MRB

10. Exhibits ~~1-4~~ ^{C-F} are copies of records made and/or kept in the ordinary course of business at NBC and/or NBFG.

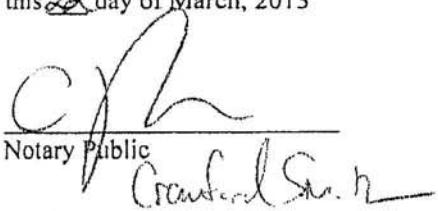
Dated: March 22, 2013
Toronto, Ontario



Brian A. Davis

Sworn to before me

this 22 day of March, 2013



Notary Public
Crawford S. Jr.